

Against the Grain

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Something to Think About: Sometimes I Wonder?

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Book Reviews — Monographic Musings

Column Editor: **Debbie Vaughn** (College of Charleston) <vaughnd@cofc.edu>

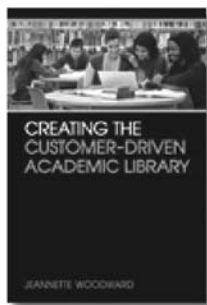


Column Editor's Note: The theme of this year's **ACRL Conference** is "Push the Edge: Explore, Engage, Extend!" How timely, then is the publication of **Jeannette Woodward's** new book, **Creating the Customer-Driven Academic Library**. In her new work, **Woodward** pushes academic librarians, library technical assistants, and administrators to renovate spaces and services to address the needs of Net Gen students. I recently heard an astute observation: students are smart consumers in the experience economy. If any experience — be it in a bricks and mortar locale or an online environment — does not satisfy their needs, they can look elsewhere for satisfaction. The **ACRL Conference** and **Woodward's** book both offer the opportunity to explore possibilities for academic librarianship in the future. Happy reading, everyone! — **DV**

Woodward, Jeannette. *Creating the Customer-Driven Academic Library*. Chicago: ALA, 2009. 9780838909768. 208 pages. \$58.00.

Reviewed by **Debbie Vaughn** (College of Charleston) <vaughnd@cofc.edu>

In the November 2005 issue of *ATG*, I reviewed **Jeannette Woodward's** *Creating the Customer-Driven Library* (ALA, 2004) and admitted that I was on the fence "concerning the practicality of libraries' emulation of bookstores." Since then, though, there have been changes in library and student trends: Library 2.0 has attempted to revitalize service, for example, and college students are more likely to hold jobs while attending school. In addition, my view of students' needs have evolved as well; moving from the reference desk to academic administration and undergraduate services has given me access to a more complete picture of the numerous things on students' plates. **Woodward's** new book, *Creating the Customer-Driven Academic Library*, addresses both the trans-



formations in the academic library landscape as well as the growing needs of students.

Woodward's book is divided into ten chapters that cover staffing, library livability, "low hanging fruit" that is ripe for transformation, marketing, customer service, and evaluation of progress. Notes and references round out each chapter, and an extensive index completes the book. Initially as I read the book, there was a nay-saying voice in my head: "State funding for public institutions has dramatically decreased — how can any changes in library affairs be afforded?" Perhaps this was simply a knee-jerk reaction from my pragmatic self, or a disguised discomfort for relating students and customers. Whatever the case may be, **Woodward** combats any internal arguments I might have had through reasoned

explanations of how and why libraries should move forward. Moreover, she takes into account crippled budgets and the placement of the library within the university. Using students (albeit some make-believe characters) as examples, she clearly illustrates that though institutional politics and the economic climate impact possibilities for improvement, the student experience does not take these factors into account. Students often do not know and/or do not care why things are the way they are in the library; quite frankly, why should they? Students are consumed with being students, with completing their assignments, and with budgeting their time to fulfill their academic, employment, and social commitments. It is up to library administrators and employees to fix things on the back end so that students have a positive library experience that includes learning about effective and efficient research methods and that excludes feelings of confusion, frustration, and library anxiety. Her suggestions for upgrades include small touches (changing the color of the library lobby) to shifts in library culture (grooming professional librarians as leaders and not only team players).

While **Woodward** makes critical observations of improvements that need to be made in academic libraries and things that we have missed, her writing style puts the reader at ease rather than on the defensive. Never could I have imagined that I would find a book about academic libraries so riveting. This page-turner is a must-read for academic librarians, library technical assistants, and administrators. 🦉

Something to Think About — Sometimes I Wonder?

Column Editor: **Mary E. (Tinker) Massey** (Serials Librarian, Embry-Riddle Aeronautical University, Jack R. Hunt Library) <masse36e@erau.edu>

Just as I was becoming complacent about the profession, one of my teachers projected a problem. What of the new generation of students in the MLS program? Where are they going? What do they understand of our profession and professional ethics? How can we project what we have known and exhibited for years. Our discussion was not being critical of the people, but our generation's inability to project our own sense of purpose and history. It's almost a marketing problem as I see it. We market the business as a worthwhile endeavor and a reason for obtaining that master's degree, but we forget the human side of the profession. Our sense of purpose comes from deep in our experience and soul. We have a special need to fill each patron with



more information than he/she ever thought possible and wait for the burst of creativeness that mandates new and exciting ideas. I, personally, love to see the results of my labors and know the world may have just become a little more knowledgeable or developed because of what I do. I have watched recent students and some new librarians in their daily tasks. I see them as very competent people in their profession, but I don't see the passion or zeal connected with the reasons that we continue forward each day. Even when I am working in the periodical or microfilm collections, students come to me with questions. I walk them through how to find things so that they won't feel trapped in needing our help each time they arrive. Sometime it is just a gentle reminder they need to get them started, or

perhaps a new slant on the material or sources that our people provide. It is important for our students to develop the correct inclinations in searching for information on their subjects. At the same time, it is important for our staff to get excited about that research and find new ways to help them. Sometimes it is the encouragement and not the information that spurs a new researcher into action. I get excited for them and they catch the bug! How do we do that for our new professionals, or better yet, how do we create that spirit in their learning years?

On days like today, I really want to be allowed to teach the young folks. Perhaps the new mentoring processes started in some schools are the right way to go, and yet...we really need some one-on-ones to get the fires lit. This generation appears to have ridden in the

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LEGAL ISSUES



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Legally Speaking — The Legality of Open Source Software Part II: Jacobsen v. Katzer

by **Bryan M. Carson, J.D., M.I.L.S.** (Associate Professor, Coordinator of Reference and Instructional Services, Associated Faculty — Library Media Education Program, Western Kentucky University Libraries, 1906 College Heights Blvd. #11067, Bowling Green, Kentucky 42101-1067; Phone: 270-745-5007; Fax: 270-745-2275) <bryan.carson@wku.edu>

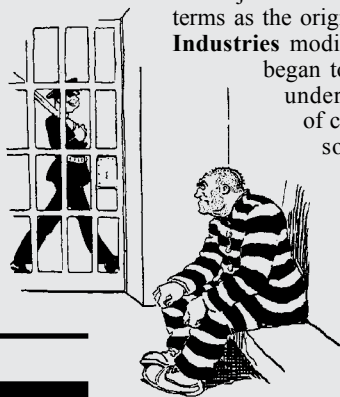
The development of the “Copyleft” and open source movement has thrown copyright law for a loop. There have been some questions about the legality of open source products, including those that use the **GNU General Public License**. However, two recent cases have affirmed the legality of the open source movement. In part I, I discussed the case of *Wallace v. IBM*,¹ a 2006 case in which the 7th Circuit Court of Appeals found that the **GNU General Public License** was not a violation of antitrust law. However, that did not completely settle the copyright and copyleft question. This month’s column will discuss the 2008 case of *Jacobsen v. Katzer*,² which was (unusually) decided by the Court of Appeals for the Federal Circuit.

Jacobsen v. Katzer sought to determine whether a copyright holder can have his/her cake and eat it too. The key issue of this case was whether authors who use the alternative system are still covered by copyright, or whether they have really given up all rights to their

work. In other words, have they inadvertently placed their work in the public domain? In August 2008, we received an answer to this question from the Court of Appeals for the Federal Circuit.

The Origins of *Jacobsen v. Katzer*

This case concerned software for model train hobbyists. **Robert Jacobsen** is a software designer in California. He created software to program chips for model trains, which was distributed under the Artistic license. **Jacobsen’s** license specifically indicated that future “downstream” modifications must themselves be subject to the same Artistic license terms as the original. However, **KAM Industries** modified the software and began to sell it commercially under the exclusive rights of copyright. Because the software involved the programming of chips which ran trains, **KAM** also obtained a utility patent for the mechanical portion of their product.



Jacobsen filed a lawsuit in Federal court in the Northern

District of California for violation of copyright and breach of contract. He also sought a declaratory judgment that **KAM’s** patent was invalid. In addition, the plaintiff requested a preliminary injunction to stop **KAM** from distributing their software. While agreeing that **Jacobsen** had a valid claim under contract law, the District Court ruled that the language of the Artistic license was so broad as to be unenforceable under copyright law. This was a major blow for **Jacobsen** because of the rules regarding preliminary injunctions.

Standards for Preliminary Injunctions

An injunction is an equitable court order that commands a party “to do or to abstain from doing a particular action. The purpose ... is to preclude the occurrence of a threat-

ened wrong or injury as well as to prevent future violations.”³ This can take the form of a temporary restraining order (TRO), a preliminary injunction, or a permanent injunction. A TRO is “a temporary order of a court to keep conditions as they are (like not taking a child out of the county or not selling marital property) until there can be a hearing in which both parties are present.”⁴ Once both parties are present, the court may issue a preliminary injunction. After final disposition of the case, the judge may then order a permanent injunction.⁵ In intellectual property cases, injunctions usually take the form of prohibiting the infringing party from continuing their infringement. Because a preliminary injunction is issued before final disposition, courts must weigh carefully the costs and benefits of using this remedy. Courts typically use the following test for whether to issue a preliminary injunction:

- (1) Whether the plaintiff will probably succeed on the merits;
- (2) Whether irreparable harm to the plaintiff would result if the injunction is not granted;
- (3) The balance of harms between the plaintiff and defendant if the injunction is allowed; and
- (4) Whether the injunction will have an impact on the public interest.⁶

While preliminary injunctions are heavily used in intellectual property cases, they are not appropriate for breach of contract claims. The appropriate remedy for breaching a contract is payment of monetary damages. There is no presumption of irreparable harm in contract law. Thus, the district court’s decision precluding **Jacobsen’s** copyright claim meant that he was not entitled to obtain a preliminary injunction.

Why This Court?

One of the most unusual features of the *Jacobsen* case was the court that heard the appeal. The Court of Appeals for the Federal Circuit was created in 1982 when Congress merged the Court of Customs and Patent Ap-

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back seats paying attention to only their books or games where we were full of questions as youth. Can it be that the growing technology in this world has stricken us with a non-communicative group of young adults? I fear that relying on computers, ipods, and a myriad of games has led us to a more non-reactive group of people who will have a lot of trouble managing others and communicating a professional passion and ethic to their patrons in whatever venue they choose to work. I wonder if this isn’t an area that needs our special attention? I am trying to volunteer some hours to communicate with new professionals. How about you? Is it worth our efforts, even at conferences, to communicate our “joie de vivre” to others? 